

SEALED

FILED

UNITED STATES DISTRICT COURT  
ALBUQUERQUE, NEW MEXICOfor the  
District of New Mexico

JUN 18 2015

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In the Matter of the Search of  
(Briefly describe the property to be searched  
or identify the person by name and address)

VALENTIN JULIO GARCIA

MATTHEW J. DYKMAN  
CLERK

Case No.

15 mr 384

## APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

located in the \_\_\_\_\_ District of \_\_\_\_\_ New Mexico \_\_\_\_\_, there is now concealed (identify the person or describe the property to be seized):

Valentin Julio Garcia, date of birth 08/30/1992, SSAN xxx-xx-2311

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;  
☐ contraband, fruits of crime, or other items illegally possessed;  
☐ property designed for use, intended for use, or used in committing a crime;  
☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

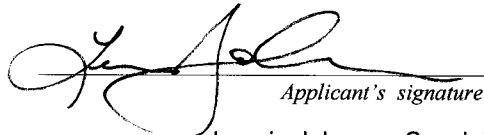
Code Section  
Title 18

U.S.C. 1951(a)

Offense Description

The application is based on these facts:

- ☒ Continued on the attached sheet.  
☐ Delayed notice of \_\_\_\_\_ days (give exact ending date if more than 30 days: \_\_\_\_\_) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.



Applicant's signature

Lennie Johnson, Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date: 06/19/2015

City and state: Albuquerque, New Mexico



Judge's signature

STEVEN C. VARBOUGH-U.S. MAGISTRATE JUDGE

Printed name and title

**Attachment C**

**AFFIDAVIT IN SUPPORT OF SEARCH WARRANT**

I, Lennie Johnson, being first duly sworn, hereby depose and state as follows:

1. I am a Special Agent of the Federal Bureau of Investigation ("FBI") and have been employed in that capacity since December 2007. I am currently assigned to the Albuquerque Division of the FBI where I investigate major crimes and investigations including, but not limited to, criminal enterprise matters and violent crimes. The information set forth in this affidavit has been derived from my own investigations or communicated to me by other sworn law enforcement officers or from reliable sources.

2. I make this affidavit in support of an application under Rule 41 of the Federal Rules of Criminal Procedure for a warrant to collect DNA samples from Valentin Julio Garcia, ("GARCIA") further described in attachment A, by collecting oral (buccal) swab samples according to the standard practices and procedures employed by the FBI for DNA testing. Based on the following facts, probable cause exists to believe that GARCIA violated federal criminal statutes, including but not limited to 18 U.S.C. § 1951(a): Interference and Conspiracy to Interfere with Interstate Commerce by Robbery and Violence; 18 U.S.C. § 924(c): Brandishing, Using, Carrying and Possessing a Firearm During and in Relation to and in Furtherance of a Crime of Violence and a Drug Trafficking Crime; 18 U.S.C. §§ 2118(a)(1) and (c)(1): Robbery Involving Controlled Substances; 18 U.S.C. §§ 670(a)(1) and (b)(2)(A) and (B): Theft of Medical Products; and 21 U.S.C. §§ 841(a)(1) and (b)(1)(C): Possession with Intent to Distribute Oxycodone.

3. The affidavit is being submitted for the limited purpose of obtaining a search warrant for DNA evidence. I have not included each and every fact known to me or other law enforcement agents concerning this investigation. Pursuant to 42 U.S.C. § 14135a(a)(1)(A) and 28 C.F.R. § 28.12(b), the FBI has authority to collect a DNA sample from Defendant since he is currently detained on federal charges. *See also Banks v. United States*, 490 F.3d 1178 (10th Cir. 2007) (upholding constitutionality of 42 U.S.C. § 14135a); *see also Maryland v. King*, 133 S.Ct. 1958 (2013) (upholding constitutionality of Maryland statute that allows law enforcement to take DNA during the booking process without a warrant). In an abundance of caution, given GARCIA's detention, I am seeking a warrant for DNA, as described below.

### **FACTS AND CIRCUMSTANCES ESTABLISHING PROBABLE CAUSE**

4. On January 30, 2015 just after 2:27 p.m., Albuquerque Police Department officers (“officers”) were dispatched to a CVS store located at 4201 Montañño Street, Albuquerque, New Mexico, in reference to an armed robbery. Upon arrival, officers interviewed a pharmacist working in the CVS store’s pharmacy inside the building. The pharmacist described that he was working his shift when two Hispanic males approached the pharmacy’s customer counters. The pharmacist and pharmacy technicians described these two males as wearing hooded sweatshirts and sunglasses.

5. According to the pharmacist and technicians, both males jumped over the service counters. The male who I believe to be GARCIA wore a black hoodie, was visibly armed with a semi-automatic handgun, and pointed it at the pharmacist when he demanded to know “Where are the oxys?” GARCIA had no permission from the CVS store or its employees to enter the pharmacy area or its safe(s).

6. GARCIA pushed the pharmacist towards the safe where the pharmacy kept schedule drugs like oxycodone. After the pharmacist assisted GARCIA’s entry into the safe, GARCIA filled a bag with multiple bottles from inside. The second male directed a nearby technician to the liquid morphine and Xanax while GARCIA rummaged through the safe. Presumably during this process, GARCIA’s hand was cut, leaving blood inside the safe’s bottom level.

7. GARCIA and his co-conspirator quickly left the store with many bottles of schedule drugs,<sup>1</sup> one of which also contained a GPS device. Officers were not able to track the bottle in real time, but were able to locate it later using a separate device. The bottle was stationary near Paseo Del Norte and Eagle Ranch roads. Officers went to that location and found the bottle and corresponding device. The items also had dried blood on them.

8. Forensic investigators sampled the blood from inside the CVS pharmacy safe and from on the bottle/device. Following an expedited analysis, the blood from both samples was

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<sup>1</sup> Oxycodone: 120\*5 mg, 301\*10 mg, 554\*15 mg, 162\*20 mg, 510\*30 mg, 220\*Percocet 10 mg, 156\*Endocet 10 mg, 148\*10 mg Oxycontin, 200\*15 mg oxycontin, 23\*20 mg oxycontin tabs, 94\*30 mg oxycontin tabs, 78\*40 mg oxycontin tabs, 100\*60 mg; 500 alprazolam (25 mg); 1,500 alprazolam (50 mg); and assorted dosage pills of Vyvanse, a common stimulant used to treat ADHD. The replacement value of these drugs is well over \$500, and the street value for oxycodone-family drugs is roughly \$1 per milligram, or about \$50,000 for the stolen narcotics alone (excluding alprazolam and stimulants like Vyvanse).

found to be contributed from the same DNA profile. On February 13, 2015, officers ran the DNA results in the Combined DNA Index System (“CODIS”). CODIS is the generic term used to describe the FBI's program of support for criminal justice DNA databases as well as the software used to run these databases. CODIS results showed that GARCIA's DNA profile<sup>2</sup> matched the blood found in the CVS pharmacy safe and bottle/tracking device found abandoned near Paseo Del Norte and Eagle Ranch.

9. Surveillance video taken from within the pharmacy shows two masked individuals jump over two different counters and converge on the three employees of the pharmacy (apparently, two technicians and a pharmacist). Consistent with witness statements, the individuals are hooded in black (GARCIA) and grey tops. GARCIA keeps his gun pointed at the pharmacist while often guiding the pharmacist with his arm. GARCIA focus visibly shifts to the safe once the pharmacist opens it. From there, GARCIA spends about 30-45 seconds searching the double-door safe, nearly drawer by drawer, while simultaneously filling a sack that he brought with him. GARCIA is joined at the end by the grey-clothed perpetrator. Certain frames of the video show each individual's face.

10. Based on GARCIA's extensive efforts and rummaging through the safe inside the CVS Store, I believe the blood left behind belongs to him. I therefore believe that GARCIA is the individual dressed in a black hoodie.

11. GARCIA was subsequently indicted by a federal grand jury and is in federal custody, pending trial before the Hon. Robert Browning, United States District Judge, with a date to be determined by that Court.

12. Based on my training and experience, I know that DNA can be recovered from surfaces that individuals touch or that their bodily fluids come in contact with. The evidence in this case indicates that GARCIA, while armed, impermissibly entered the pharmacy area of a CVS store, jumped over the counter, and eventually rummaged through its drug safe. Forensic scientists located blood inside the safe and on an item that was removed from the safe on that day, January 30, 2015. Having already confirmed that GARCIA's DNA profile in CODIS matches the safe and bottle blood samples, I believe there is probable cause to believe that GARCIA's DNA—taken from his person—will also match these specimens.

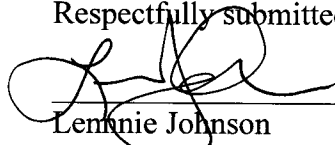
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<sup>2</sup> New Mexico DNA Identification System profile #0073176A belongs to Valentin J. Garcia, date of birth August 30, 1992, with a social security number of 525-97-2311.

**CONCLUSION:**

13. I believe that based upon the information contained herein, there is probable cause to obtain a warrant to collect DNA samples from Valentin Garcia.

Respectfully submitted,



Lennie Johnson  
Special Agent  
Federal Bureau of Investigation

Subscribed and sworn to before me on June 19, 2015:

  
UNITED STATES MAGISTRATE JUDGE